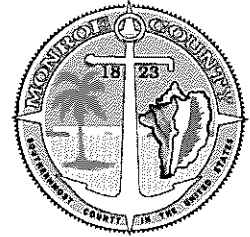


MEMORANDUM
MONROE COUNTY PLANNING DEPARTMENT

We strive to be caring, professional and fair



To: Monroe County Planning Commission

Through: Townsley Schwab, Senior Director of Planning and Environmental Resources *TS*

From: Mitchell N. Harvey, AICP, Comprehensive Planning Manager *MNH*

Date: June 3, 2009

RE: Extension of Moratorium for Transient Residential Units

Meeting Date: June 10, 2009

I. BACKGROUND

Policy 101.2.6 of the Monroe County Comprehensive Plan currently states:

By January 4, 1996, Monroe County shall adopt Land Development Regulations which prohibit new transient residential units including hotel or motel rooms, campground spaces, or spaces for parking a recreational vehicle or travel trailer until December 31, 2001, Monroe County shall either extend this prohibition until December 2006 or revise the Permit Allocation System to allocate a percentage of residential growth to transient units.

For purposes of this staff report hotel or motel rooms, campground spaces, and spaces for parking a recreational vehicle or travel trailer will be referred to as Transient Residential Units (TRUs).

The Monroe County Planning and Environmental Resources Department is proposing to amend Policy 101.2.6 of the Monroe County 2010 Comprehensive Plan to extend the moratorium of new TRUs until the annual occupancy rate exceeds 90%, as determined by the Monroe County Tourist Development Council (TDC). When the annual occupancy rate exceeds 90%, then 10% of the annual residential Rate of Growth (ROGO) allocations for unincorporated Monroe County will become available for new transient unit allocations. When the annual occupancy rate falls below 90%, then the annual allocation for new transient units will cease and a moratorium for new transient unit allocations will become effective.

W:\Planning\Working Folders\Harvey-Mitch\Transient Uses\PC 6.10.09\Transient Moritorium GOP PC Staff Report (3).doc

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3 Following final approval of the proposed Comprehensive Plan Amendment, an
4 associated amendment to Section 138-23 of the Monroe County Land
5 Development Code will be developed that implements the proposed
6 comprehensive plan amendment. The present transient use moratorium will
7 remain in effect until both the Comprehensive Plan and Land Development Code
8 are amended.
9

10 **II. PROCESS**

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12 Amendments to the Goals, Objectives, and Policies of the Comprehensive Plan
13 may be proposed by the Board of County Commissioners (BOCC), the Planning
14 Commission or the Director of Planning. The Director of Planning shall review
15 and process amendments and pass them on to the Development Review
16 Committee and the Planning Commission for recommendation and final approval
17 by the BOCC.
18

19 The Planning Commission and the BOCC shall each hold at least one public
20 hearing on a proposed amendment. The Planning Commission shall review the
21 amendment, the reports and recommendations of the Department of Planning &
22 Environmental Resources and the Development Review Committee, and the
23 testimony given at the public hearing, and shall submit its recommendations and
24 findings to the BOCC. The BOCC shall consider the staff report,
25 recommendation, and testimony given at the public hearings and may either deny
26 the application or adopt or not adopt a resolution transmitting the proposed
27 amendment to the DCA. Amendments are then reviewed by the Florida
28 Department of Community Affairs and returned to the County with objections,
29 rejections and comments to be considered prior to adoption of the ordinance.
30 Then, an adoption hearing is scheduled for the BOCC.
31
32

33 **III. ISSUES**

34

35 The development of new TRUs will have an impact on a number of health, safety
36 and quality of life issues such as: hurricane evacuation, workforce/employee
37 housing, wastewater treatment (water quality), traffic volumes and increased
38 demand on the natural environment through increase use of the reefs, and the
39 waters off the Florida Keys. One of the main objectives of creating an ordinance
40 to promote redevelopment and/or permit new TRUs is to mitigate and if possible
41 eliminate the negative impacts of new TRUs.
42

43 **Employee\Workforce Housing**

44

45 The current costs of housing (for rent or sale) in the Florida Keys have led
46 hotels/motels and other service employers to hire workers who have to commute

1 anywhere from 1 to 3 hours from the mainland. With the creation of new TRUs,
2 this demand for more affordable employee\workforce housing will increase.

3
4 It should be the goal of any ordinance that allows new TRUs to also mitigate the
5 demand for affordable employee\workforce housing. This is be accomplished by
6 requiring the redevelopment/development of new TRUs to provide
7 employee\workforce housing by providing the units as part of their project (on-
8 site or off-site) or by payment into an affordable housing fund. All existing
9 inclusionary zoning requirements for affordable housing associated with transient
10 residential units will continue to apply and be enforced thorough the Monroe
11 County Code.

12 13 **Wastewater Treatment**

14
15 Monroe County is under a state mandate to have a central wastewater system by
16 2010. The development of new TRUs should not be permitted unless the
17 development can meet the standards and requirement of the Year 2010 mandate.
18 Therefore, new development of TRUs should be directed and only encouraged in
19 those areas with central wastewater systems or to areas that will have central
20 wastewater systems in operation when the TRU project is completed.

21 22 **Traffic Volumes**

23
24 The addition of new TRUs may result in the addition of new traffic impacts.
25 New TRU developments should be designed to minimize traffic impacts by
26 including onsite amenities that would limit the need to drive to restaurants, retail
27 stores, or other attractions. Furthermore, new TRU developments should be
28 encouraged to locate adjacent to existing amenities such as restaurants, or retail
29 stores.

30
31 Another strategy would be to encourage visitors to use other modes of
32 transportation such as walking, bicycling, or bus service. New TRUs are
33 encouraged to include bicycle and pedestrian facilities that provide a connection
34 to surrounding amenities, provide bus service for guests, or provide transit
35 amenities such as bus shelters.

36 37 **Hotel Occupancy Rates**

38
39 Occupancy rates are a travel industry standard for assessing the ability of
40 available beds to meet existing and anticipated demands. The Monroe County
41 Tourist Development Council (TDC) maintains a database for occupancy rates
42 which is prepared by Smith Travel Research. Between 1999 and 2008, the
43 average annual county-wide occupancy rate for Monroe County has varied from
44 66.4% (2001) to 72.2% (2003) (See attached).

1 The Study of Economic Impact of Conversion of Commercial Lodging Properties
2 to Condominiums, prepared for the Pinellas County Board of County
3 Commissioners by Wilbur Smith Associates (February 2005), cites 90% as the
4 threshold where visitors to an area may be lost after 90% occupancy is reached.
5 This would therefore be an acceptable standard that could be used to justify
6 maintaining a transient use moratorium until this threshold is reached in Monroe
7 County.

8 9 **Hurricane Evacuation**

10
11 Policy 216.1.8 of the Monroe County 2010 Comprehensive Plan states:

12
13 *Approximately 48 hours in advance of tropical storm winds, a*
14 *mandatory evacuation of non-residents, visitors, recreational*
15 *vehicles (RV's), travel trailers, live-aboards (transient and non-*
16 *transient) and military personnel from the Keys shall be initiated.*
17

18 The occupants of TRUs would therefore evacuate far ahead of the permanent
19 resident population, who require evacuation 24 hours prior to landfall of a major
20 hurricane.

21 22 **Rate of Growth Ordinance (ROGO)**

23
24 New residential development is restricted through Monroe County's Permit
25 Allocation System known as the Rate of Growth Ordinance (ROGO). At the
26 present time, the Florida Department of Community Affairs requires total annual
27 cap of 197 units, with a minimum of 71 units allocated for affordable housing and
28 market rate allocations not to exceed 126. The creation of new ROGO unit
29 allocations for transient uses would therefore result in the reduction of available
30 market rate units. A 10% allocation of the annual cap of 197 units for transient
31 uses would result the creation of 19 transient units, reducing the annual market
32 rate units to 107. Unused transient units would be placed in a pool that can be
33 allocated on a first come first served basis. Implementation of a transient unit
34 pool would only occur following the determination that there exists a 90% or
35 more hotel occupancy rate. The transient unit pool would then be frozen once the
36 hotel occupancy rate is determined to be less than 90%.

37 38 **Other Florida Keys Communities**

- 39
40 • The Islamorada Comprehensive Plan Policy 1-2.1.10 caps the number of
41 transient units to those that were in existence as of December 6, 2001.
42 Section 30-32 of the Islamorada LDR defines room as:

43
44 *Room, hotel or motel, means a unit in a public lodging establishment as*
45 *defined by F.S. § 509.013(4)(a) intended for transient lodging only for*
46 *periods not exceeding 30 days. Transient occupancy shall conform to the*

definition contained in F.S. § 509.013(8) as to transient occupancy. For the purposes of density restriction under this chapter:

(1) A hotel or motel room may be a single room or a suite and may include a kitchen but no more than 1 1/2 bathrooms;

(2) All entrances to a hotel or motel room shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units; and

(3) Suites containing more than one bedroom and 1 1/2 baths may be constructed; however, each bedroom/full bath combination shall be considered a hotel/motel unit.

- Marathon has no effective transient unit moratorium and no specific transient unit allocations associated with its Permit Allocation System. Marathon presently implements the redevelopment and transfer of lawfully established transient units through Section 104.25.B. of the Marathon LDRs, which state:

1. An existing hotel or motel room may be redeveloped to a unit not exceeding 1,500 square feet consisting of no more than two and one-half (2 1/2) bathrooms, three (3) bedrooms and one (1) other living area, subject to the following rates of redevelopment:

a) A one (1) bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units;

(b) A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and

(c) A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of 85 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units.

- Key West implements transient units within its Land Development Regulations. Transient units are counted as residential units for purposes of calculating evacuation time as part of its Permit Allocation System. Policy 1-2.12.3 states that the transient unit allocation shall not exceed 25% of the total equivalent single family units. Sections 108-987 and 108-1057 of the LDRs states that one transient unit is equal to 0.58 Equivalent Single Family Unit.

- Layton and Key Colony Beach do not have transient unit restrictions or limitations within their LDRs.

IV. Amendment to the Monroe County 2010 Comprehensive Plan:

Staff recommends that new transient unit ROGO allocations be linked to the average occupancy rate in the following manner:

1 **Policy 101.2.6:**

2 ~~By January 4, 1996, Monroe County shall adopt Land Development Regulations~~
3 ~~which prohibit new transient residential units including hotel or motel rooms,~~
4 ~~campground spaces, or spaces for parking a recreational vehicle or travel trailer~~
5 ~~until December 31, 2001, Monroe County shall either extend this prohibition until~~
6 ~~December 2006~~ the average annual occupancy rate exceeds 90%, as evidenced
7 by the Tourist Development Council annual trend report of Monroe County
8 occupancy rates, at which time or revise the Permit Allocation System shall to
9 allocate a percentage ten percent of annual residential growth to transient units.
10 This percentage allocation of transient units will terminate when the Tourist
11 Development Council annual trend report of Monroe County average occupancy
12 rates fall below 90%.
13
14

15 **V. Consistency with the Principles for Guiding Development in the Florida**
16 **Keys Area of Critical State Concern pursuant to F.S. Chapter 380.0552(7).**

17 For the purposes of reviewing consistency of the adopted plan or any
18 amendments to that plan with the principles for guiding development and any
19 amendments to the principles, the principles shall be construed as a whole and no
20 specific provision shall be construed or applied in isolation from the other
21 provisions.
22

23 (a) To strengthen local government capabilities for managing land use
24 and development so that local government is able to achieve these
25 objectives without the continuation of the area of critical state concern
26 designation.

27 (b) To protect shoreline and marine resources, including mangroves,
28 coral reef formations, seagrass beds, wetlands, fish and wildlife, and
29 their habitat.

30 (c) To protect upland resources, tropical biological communities,
31 freshwater wetlands, native tropical vegetation (for example,
32 hardwood hammocks and pinelands), dune ridges and beaches,
33 wildlife, and their habitat.

34 (d) To ensure the maximum well-being of the Florida Keys and its
35 citizens through sound economic development.

36 (e) To limit the adverse impacts of development on the quality of
37 water throughout the Florida Keys.

38 (f) To enhance natural scenic resources, promote the aesthetic benefits
39 of the natural environment, and ensure that development is compatible
40 with the unique historic character of the Florida Keys.

41 (g) To protect the historical heritage of the Florida Keys.

42 (h) To protect the value, efficiency, cost-effectiveness, and amortized
43 life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;
2. Sewage collection and disposal facilities;
3. Solid waste collection and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. Transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.

(i) To limit the adverse impacts of public investments on the environmental resources of the Florida Keys.

(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

(k) To provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post disaster reconstruction plan.

(l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource.

Staff finds the proposed amendment consistent with the Principles for Guiding Development as a whole and is not inconsistent with any one principle.

VI. Implementation Strategy:

Following final approval of the proposed Comprehensive Plan Amendment, an associated amendment to Section 138-23 of the Monroe County Land Development Code (LDC) will be developed. The present transient residential use moratorium, as described within Section 138-23 of the LDC, will remain in effect until both the Comprehensive Plan and LDC are amended.

These development regulations will apply to new transient residential units that become available through the annual residential ROGO allocation process. When the annual average occupancy rate exceeds 90%, 10% of the annual allocation for residential units will be placed in a transient unit pool to be allocated on a first come, first served, basis. The transient residential unit pool will continue to accumulate until the annual average occupancy rate falls below 90%. When the annual average occupancy rate falls below 90%, the moratorium for new transient residential units will be enforced by freezing the annual ROGO allocation for new transient residential units.

VI. Staff Recommendation:

Staff recommends **approval** to the Monroe County Planning Commission.

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VII. Attachments

- 1.Smith Travel Research Trend Report
- 2.Data and Analysis
- 3.Proposed Ordinance
- 4.Proposed Resolution